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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/010,603	11/08/2001	Peter Morrison	3089	6602

27727 7590 02/10/2005  
PEDERSEN & COMPANY, PLLC  
P.O. BOX 2666  
BOISE, ID 83701

EXAMINER

ARYANPOUR, MITRA

ART UNIT	PAPER NUMBER
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3711

DATE MAILED: 02/10/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

<b>Office Action Summary</b>	<b>Application No.</b>	<b>Applicant(s)</b>	
	10/010,603	MORRISON, PETER	
	<b>Examiner</b>	<b>Art Unit</b>	
	Mitra Aryanpour	3711	

**-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --**

**Period for Reply**

**A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.**

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 08 November 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-4,7-14,16-21 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☐ Claim(s) 1,3,4,7,8,10-12,14,16,17 and 19-21 is/are rejected.
- 7) ☐ Claim(s) 2,9,13 and 18 is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

**Priority under 35 U.S.C. § 119**

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All    b) ☐ Some \* c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

**Attachment(s)**

- |  |   |
|--|---|
| 1) <input type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)                                   | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date _____ | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Claim Objections***

1. Claims 16-18 are objected to under 37 CFR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 16 and 17 are dependent on cancelled claim 15. It appears that the aforementioned claims should be dependent on claim 12 instead.

### ***Claim Rejections - 35 USC § 103***

2. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

3. Claims 1, 3, 4, 7, 8, 10-12, 14, 16, 17, 19-21 are rejected under 35 U.S.C. 103(a) as being unpatentable over Reneteau (FR 2,582,529).

Regarding claim 1, Reneteau shows a training apparatus for use in training a player in a spherical ball sport such as soccer, the apparatus comprising a number of substantially rigid targets (dummy 1) which can be arranged around a training area for the player (see page 1, first paragraph), the targets (dummy 1) being positioned and adapted such that a ball struck by the player against a target (dummy 1) will rebound into the training area so that the player can immediately strike the ball at the same or another target (it should be noted that the dummies are formed of hard plastic and they are attached to the base via springs, therefore, when impacted by a ball, the ball will inherently rebound back into the playing area), the targets having a plurality

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of mounting positions (the dummies are mounted to the base via springs 2 and 3 which allow the dummies to oscillate), the targets being movable between respective mounting positions (oscillate back and forth) so as to move the targets forwards or backwards relative to the training area. Reneteau further teaches each target being mounted upon a base member (base 4) in the form of a ring surrounding the training area (the dummies can assume different positions on the field, including being positioned in the form of a ring). To the extent if one argues that the base/dummies of the Reneteau is not arranged in a ring, it would have been obvious to arrange the dummies to form a ring around the playing area, the motivation being to confine the playing area, so the player would have better ball control.

Regarding claim 3, Reneteau shows each target (dummy 1) is mounted upon a substantially rigid frame member (the broadest reasonable interpretation of rigid frame member would include the lower portion of the dummy or its legs), each target (dummy 1) being mounted upon the base member (base 4) by way of its frame member (its legs).

Regarding claim 4, Reneteau does not expressly disclose if the upper portion of the dummy and the lower portion of the frame are made in one section or if it is made in two separate sections. It would have been obvious to one having ordinary skill in the art at the time the invention was made to have made the target of Renetau in two sections, since it has been held that constructing a formerly integral structure in various elements involves only routine skill in the art. Nerwin v. Erlichman, 168 USPQ 177, 179.

Regarding claim 7, note the rejection of claim 1.

Regarding claim 8, note the rejection of claim 1. Additionally, with regards the targets carrying identifying indicia, Reneteau shows that the targets are place on the field in order to

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“fake” players in as true a fashion as possible, in order to create true game conditions. Therefore, since players customarily are assigned numbers, therefore, the targets would also be assigned numbers, since Reneteau is trying to create as true a game condition as possible.

Regarding claim 10, Reneteau shows the targets (dummy 1) are in the form of a mannequin (see figure 1).

Regarding claim 11, Reneteau shows the targets (dummy 1) are substantially vertical (see figure 1).

Regarding claim 12, during normal use and operation of the Reneteau device, the method steps set forth by applicant in the claim is inherently provided.

Regarding claim 14, note the rejection of claim 3.

Regarding claim 16, Reneteau shows the targets (dummy 1) are movable (they are attached to the base via springs 2 and 3 which allow the dummy to oscillate with respect to the base) relative to the base member (base 4).

Regarding claim 17, Reneteau shows that the dummies (1) can assume different positions on the playing field. Therefore, the dummies (1) can be arranged in a circular ring surrounding the playing area.

Regarding claim 19, note the rejection of claim 10.

Regarding claim 20, note the rejection of claim 11.

Regarding claim 21, during normal use and operation of the Reneteau device, the method steps set forth by applicant in the claim is inherently provided.

***Allowable Subject Matter***

4. Claims 2, 9, 13 and 18 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.


***Conclusion***

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Mitra Aryanpour whose telephone number is 571-272-4405. The examiner can normally be reached on Monday - Friday 8:00 to 4:30.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Greg Vidovich can be reached on 571-272-4415. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

MA  
04 February 2005

  
**MITRA ARYANPOUR**  
**PRIMARY EXAMINER**